UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ALONZO DEAN SHEPHARD,
Plaintiff

Case No. 1:05cv408

vs

GOVERNOR BOB TAFT, et al.,
Defendants

ORDER
(Watson, J.)

Plaintiff, an inmate at the Southern Ohio Correctional Facility (SOCF) in Lucasville, Ohio, brings this action against Ohio Governor Bob Taft, Ohio Department of Rehabilitation and Correction Director Reginald Wilkinson, and SOCF Warden E.C. Voorhies. Plaintiff's complaint alleges a multitude of conclusory allegations concerning the conditions of his confinement at SOCF over the many years of his imprisonment. The complaint also alleges a litany of other claims which are delusional, irrational, confusing or unintelligible, or which have previously been addressed by this Court in plaintiff's numerous other cases. Plaintiff seeks "2 emergency injunctions" and monetary relief.

Mr. Shephard is a frequent and abusive litigant in the Sixth Circuit Court of Appeals and in the district court. *See Shephard v. Marbley*, 23 Fed. Appx. 491, 2001 W.L. 1557003 (6th Cir. 2001). Pursuant to this Court's Order in *In re: Alonzo Dean Shephard*, No. MC-3-99-025 (S.D. Ohio Nov. 1, 1999)(Rice, J.), the Clerk of Court has been directed to not file any papers tendered by Mr. Shephard unless he receives prior judicial authorization. Mr. Shephard has failed to request and obtain prior judicial authorization to file the instant complaint.

Moreover, plaintiff has failed to submit the $250.00 filing fee or a request to proceed *in forma pauperis* along with a certified copy of his trust fund account statement for the six-month

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period immediately preceding the filing of the complaint pursuant to 28 U.S.C. § 1915(a)(2). The Court will not enter a deficiency order in this regard, however, because plaintiff is not entitled to proceed with this matter *in forma pauperis* in any event in view of his history of frivolous litigation.

In accordance with section 804(d) of the Prison Litigation Reform Act (PLRA) of 1995, Pub. L. No. 104-134, 110 Stat. 1321, amending 28 U.S.C. § 1915:

> (g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).

Plaintiff is prevented by the Prison Litigation Reform Act from filing any civil action in this Court *in forma pauperis* because he has filed at least three frivolous actions in this Court in the past. *See Shephard v. McGurie,* MS 1-96-199 (S.D. Ohio Oct. 18, 1996)(Spiegel, J.)(Doc. 4). Plaintiff's previous frivolous dismissals prevent him from filing this action *in forma pauperis*. In view of his three "strikes," plaintiff may not proceed *in forma pauperis* unless the statutory exception applies, that is, unless he "is under imminent danger of serious physical injury." § 1915(g). The Court is unable to discern from plaintiff's complaint any facts indicating he is under imminent danger of serious physical injury. Under the plain language of the statute, plaintiff must be "in imminent danger at the time that he seeks to file his suit in district court" to qualify for the exception to the three strike provision of § 1915(g). *See Abdul Akbar v. McKelvie*, 239 F.3d 307, 311 (3rd Cir. 2001); *Medberry v. Butler*, 185 F.3d 1189, 1193 (11th Cir. 1999); *Ashley v. Dilworth*, 147 F.3d 715, 716 (8th Cir. 1998); *Banos v. O'Guin*, 144

F.3d 883, 884 (5th Cir. 1998). Plaintiff has failed to allege particular facts showing any immediate or specific danger of future serious physical injury. Therefore, plaintiff does not meet the exception to section 1915(g).

For these reasons, plaintiff may not proceed *in forma pauperis* in this matter. It is hereby **ORDERED** that plaintiff pay the $250 filing fee within **thirty (30) days**. Plaintiff's failure to pay the full filing fee within thirty days will result in the dismissal of his action. *See In re Alea*, 286 F.3d 378, 382 (6th Cir.), *cert. denied*, 537 U.S. 895 (2002). Even if the case is dismissed, plaintiff will still be responsible for payment of the $250.00 filing fee. *Id*.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal of this Court's Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

IT IS SO ORDERED.

Date: 6/15/2005

s/Michael H. Watson
Michael H. Watson
United States District Judge